

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXEC. ACTION _____
EFFECTIVE DATE _____

**County Council of
Howard County, Maryland**

2010 Legislative Session

Legislative Day No. 5

Bill No. 28 -2010

Introduced by: The Chairperson at the request of the County Executive

AN ACT to authorize and empower Howard County, Maryland to borrow, on its full faith and credit, up to \$351,000 from the Maryland Water Quality Financing Administration (the "Administration"), and to issue and sell its installment bonds to the Administration, the proceeds thereof to be used to pay costs of Capital Project S6237 (FY2001 Patapsco Convey/Treat Facilities), and to pay all related costs; and to levy taxes upon the assessable property within the County sufficient, together with benefit assessments, ad valorem taxes levied upon assessable property in the Metropolitan District and other available funds, to pay the debt service on such bonds; authorizing the County to enter into one or more Loan Agreements with the Administration to effect and further evidence such borrowing; and making certain findings and determinations.

Introduced and read first time _____, 2010. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2010 and concluded on _____, 2010.

By order _____
Stephen LeGendre,
Administrator

This Bill was read the third time on _____, 2010 and Passed, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre,
Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2010 at ____ a.m./p.m.

By order _____
Stephen LeGendre,
Administrator

Approved by the County Executive _____, 2010

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Recitals**

2 In accordance with the provisions of Section 603 of the Charter of Howard County, the
3 County Executive of Howard County, Maryland (the "County") has submitted a proposed Capital
4 Budget for fiscal year 2011 to the County Council of Howard County, Maryland (the "County
5 Council"), and, prior to the passage of this Act, the County Council has adopted a Capital Budget
6 for the fiscal year ending June 30, 2011 (the "Capital Budget").

7 Pursuant to and in accordance with the Maryland Water Quality Financing
8 Administration Act, Sections 9-1601 to 9-1622 of the Environment Article, Annotated Code of
9 Maryland, as amended (the "MWQFA Act"), the Maryland Water Quality Financing
10 Administration (the "Administration") is authorized to issue its bonds to provide moneys for
11 deposit into the Maryland Water Quality Revolving Loan Fund (the "Fund") to be used to make
12 loans to "local governments" for the purpose of financing all or a portion of the cost of a
13 "wastewater facility". Any loan from the Administration is evidenced by one or more bonds or
14 other obligations issued by a local government to the Administration.

15 Section 9-1606 of the MWQFA Act provides as follows:

16 "§ 9-1606 Loans.

17 (a) A loan made by the Administration shall be
18 evidenced by a loan agreement. Loans made from the Water
19 Quality Fund, except for loans made in accordance with § 9-
20 1605(d)(9) of this subtitle, shall be subject to the provisions of § 9-
21 1605(d)(1) of this subtitle. Loans made from the Drinking Water
22 Loan Fund, except for loans made in accordance with § 9-
23 1605.1(d)(10) of this subtitle, shall be subject to the provisions of §
24 9-1605.1(d)(1) of this subtitle. Subject to the provisions of any
25 applicable bond resolution, the Administration may consent to the
26 modification, with respect to rate of interest, time of payment of
27 any installment of principal or interest, security, or any other term
28 of any loan agreement or loan obligation. In connection with any
29 security received by or owned by the Administration, including any
30 loan obligations, the Administration may commence any action to
31 protect or enforce the rights conferred upon it by any law or loan
32 agreement or loan obligation.
33

34 (b) Notwithstanding any other provision of public
35 general or public local law, charter, or ordinance, a borrower may
36 issue and sell loan obligations to the Administration:
37

- 38 (1) At private sale, without public bidding;
39

1
2 (2) Without regard to any limitations on the
3 denomination of such obligations; and
4

5 (3) At any interest rate or cost or at any price that the
6 borrower considers necessary or desirable.
7

8 (c) A borrower may pay any fees or charges
9 necessary to enable the Administration to sell its bonds, including
10 any fees for the insurance of its loan obligations or bonds of the
11 Administration, or to provide any other guarantee, credit
12 enhancement, or additional security for any such loan obligations
13 or bonds.
14

15 (d) Notwithstanding any other provision of public
16 general or public local law, charter, or ordinance, a borrower may
17 agree with the Administration to pledge any moneys that the
18 borrower is entitled to receive from the State, including the
19 borrower's share of the State income tax, to secure its obligations
20 under a loan agreement. The State Comptroller and the State
21 Treasurer shall cause any moneys withheld under such a pledge to
22 be paid to, or applied at the direction of, the Administration.
23

24 (e) Each loan agreement shall contain a provision
25 whereby the borrower acknowledges and agrees that the borrower's
26 loan obligation is cancelable only upon repayment in full and that
27 neither the Administration, the Secretary, nor the Board is
28 authorized to forgive the repayment of all or any portion of the
29 loan, except for loans to disadvantaged communities, pursuant to
30 the federal Safe Drinking Water Act, and loans made in accordance
31 with §§ 9-1605(d)(9) and 9-1605.1(d)(10) of this subtitle.
32

33 (f) In the event of a default on a loan obligation by a
34 borrower other than a local government, the Administration may
35 place a lien against property of the borrower securing the loan
36 which, subject to the tax liens of the federal, State, and local
37 governments, shall have the same priority and status as a lien of the
38 State for unpaid taxes under §§ 14-804 and 14-805 of the Tax-
39 Property Article. The Administration may exercise the same rights
40 and powers in enforcing such lien and collecting funds for the
41 payment of amounts in default under the loan obligation as the
42 State may exercise in collecting unpaid taxes under Title 14,
43 Subtitle 8 of the Tax- Property Article."

44 Section 9-1605(d)(9) of the MWQFA Act provides that amounts in the Fund may be used
45 "[t]o provide financial assistance in the form of grants, negative interest loans, forgiveness of
46 principal, subsidized interest rates, and any other form of financial assistance as authorized or
47 required by the American Recovery and Reinvestment Act of 2009, as may be amended or
48 supplemented." Section 9-1605(d)(1) of the MWQFA Act provides that annual principal and interest

1 payments will commence not later than one year after completion of any wastewater facility and all
2 loans will be fully amortized not later than 20 years after project completion, and that a local
3 government borrower will establish a dedicated source of revenue for repayment of loans.

4 The Capital Budget includes appropriations of \$351,000 in the aggregate to be borrowed
5 from the Administration in accordance with the MWQFA Act to pay costs of a certain sewer capital
6 project specified in the County's Capital Budget which is more particularly described in Appendix A
7 to this bond enabling law (the "Project") and to pay all related costs. The County is a "local
8 government" and the Project is a "wastewater facility", both as defined in the MWQFA Act.

9 **Now therefore,**

10 **Section 1. Be it enacted by the County Council of Howard County, Maryland,** That all
11 terms used herein with an initial capital letter and defined in the Recitals hereof shall have the
12 meanings given such terms therein, unless the context clearly indicates a contrary meaning.

13 **Section 2. Be it further enacted by the County Council of Howard County, Maryland,**
14 (a) That the County is hereby authorized and empowered to borrow, on its full faith and credit, an
15 amount not exceeding \$351,000 from the Administration and to issue and sell one or more
16 installment bonds (each, a "Bond") to the Administration, at one time or from time to time within
17 four years from the effective date of this Act, pursuant to and in accordance with the Howard County
18 Charter and the MWQFA Act, the proceeds thereof to be used for financing, reimbursing or
19 refinancing costs of the Project, as more particularly specified and described in Appendix A hereto
20 and in the County's Capital Budget, and for payment of all related costs, including, without
21 limitation, the costs incurred by the County in connection with the issuance of the Bond or Bonds to
22 the Administration, and the costs of planning, design, construction, reconstruction, renovation,
23 rehabilitation, remodeling, enlargements, improvements, equipping, furnishing, engineering and
24 architect's services, surveys, studies, landscaping, site development and land acquisition and related
25 items, appurtenances and incidental activities, to the extent permitted under the MWQFA Act.

26 (b) Each Bond shall constitute a "loan obligation" within the meaning of the
27 MWQFA Act.

1 (c) The County is further authorized to enter into a Loan Agreement with the
2 Administration (each, a "Loan Agreement") to effect and evidence each loan from the
3 Administration.

4 **Section 3. Be it further enacted by the County Council of Howard County, Maryland,**
5 That, for each Bond issued under this Act, the County Council, by an ordinance or ordinances
6 adopted from time to time in accordance with Sections 606 and 618 of the Howard County Charter,
7 the MWQFA Act, and other applicable provisions of law, shall provide for (a) the issuance and sale
8 of such Bond to the Administration, (b) the designation, form, tenor, maximum principal amount
9 (and the formula for computing the final principal amount), denomination and maturity (not
10 exceeding 20 years after Project completion), (c) the amortization schedule of such Bond (or the
11 formula for computing such schedule, subject to any limitations contained in the MWQFA Act and
12 any program requirements of the Administration), (d) the interest rate (or the method of determining
13 such rate) payable on such Bond, and (e) the form and terms and conditions of the Loan Agreement.

14 **Section 4. Be it further enacted by the County Council of Howard County, Maryland,**
15 That for the purpose of paying the principal of and interest on the Bonds as the same shall become
16 payable, the County Council shall levy annually ad valorem taxes upon the assessable property in
17 Howard County sufficient, together with benefit assessments, ad valorem taxes levied upon
18 assessable property in the Metropolitan District and other available funds, to pay the principal of and
19 interest on the Bonds until the entire principal amount of the Bonds shall mature and be redeemed.

20 **Section 5. Be it further enacted by the County Council of Howard County,**
21 **Maryland,** That the County anticipates that a portion of the costs of the Project may be paid prior
22 to the issuance of the Bonds. The amount of such costs so paid will depend on various factors,
23 including, without limitation, the timing and speed of progress on the Project, the availability of
24 other funds to pay such costs on an interim basis, bond and money market conditions and
25 compliance with federal and State laws and regulations.

1 Accordingly, the County reasonably expects to reimburse costs of the Project (as
2 described herein) with proceeds of the Bonds, such Bonds to be issued by the County in the
3 maximum principal amount of \$351,000.

4 **Section 6. Be it further enacted by the County Council of Howard County, Maryland,**

5 That this Act shall take effect sixty-one (61) days after its enactment.

Maryland Water Quality Project

Project Description

**Amount to be
Borrowed**

S6237 FY2001 PATAPSCO CONVEY/TREAT
FACILITIES

\$351,000

A project for Howard County's participation in the cost
sharing for the capital funding of the Patapsco Treatment
Plant at Wagners Point and the related Patapsco
Interceptor, Pump Station, and Force Main.

TOTAL AMOUNT TO BE BORROWED:

\$351,000